

MINUTES  
BOARD OF SUPERVISORS  
COUNTY OF YORK

Regular Meeting  
September 17, 2002

7:00 p.m.

Meeting Convened. A Regular Meeting of the York County Board of Supervisors was called to order at 7:00 p.m., Tuesday, September 17, 2002, in the Board Room, York Hall, by Chairman Donald E. Wiggins.

Attendance. The following members of the Board of Supervisors were present: Walter C. Zarembo, Sheila S. Noll, Donald E. Wiggins, James S. Burgett, and Thomas G. Shepperd.

Also in attendance were James O. McReynolds, County Administrator; and James E. Barnett, County Attorney.

Invocation. Pastor Gene Cornett, Seaford Baptist Church, gave the invocation.

Pledge of Allegiance to the Flag of the United States of America. Chairman Wiggins led the Pledge of Allegiance.

**HIGHWAY MATTERS**

Mr. Steve Hicks, Assistant Resident Engineer, Virginia Department of Transportation (VDOT), appeared to introduce himself and discuss highway matters of interest to the Board of Supervisors.

Chairman Wiggins asked who the VDOT representative would be on the Stormwater Advisory Committee.

Mr. Hicks stated that Mr. Brewer would remain on the committee. He then offered to ride throughout the County with each Board member to identify problem areas.

Mr. Zarembo questioned how and when VDOT would classify a road as unsafe and then take the necessary action to make it safe. He stated that the County had several of these types of roads.

Mr. Hicks explained some of the factors that determine the safety of roads such as traffic volume, accident reports, and the overall road design. He stated that localities could qualify for some federal funding if the road meets the hazardous criteria established.

Mr. Burgett asked about getting several streets on the paving schedule.

Mr. Hicks elaborated on the paving schedule process, including the conditions that warrant paving.

Mr. Burgett asked about the schedule for the Ft. Eustis Boulevard extension project from Route 17 to Old York Hampton Highway. He stated that the Board had been trying to get the road done for many years, and he asked if the project could be re-examined.

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Mr. Hicks indicated that the project was his number one priority, and he will be setting up meetings to discuss whether the road will be a two-lane or four-lane road. He stated that the first phase of the project could definitely be funded

Mr. Shepperd expressed concern about the ditches in the County and VDOT's involvement in cleaning them out. He specifically mentioned Mansion Road and the two proposed subdivisions to be built on the narrow road. He also noted that a citizen has allowed school buses to turn around at the end of the road on her property. The school buses have compressed the culvert down into the ditch and part of the wall of the ditch has collapsed. Mr. Shepperd then stated the timing on the new light at Long Green Boulevard and Route 134 needed to be adjusted.

Mr. Hicks responded that he was aware of the problems on Mansion Road and will look into Mr. Shepperd's other concerns.

Mr. John Mazur, Assistant Resident Engineer, VDOT, updated the Board on the Dare Road turning lane construction project. He stated the ditches in the area are being cleaned out and problems resolved. He updated the Board on the paving at Big Bethel Road and Route 134, pointing out that half of the paving was getting done between Big Bethel and Meadowlake this year, with the remaining portion to be scheduled for next year.

Chairman Wiggins stated that the two manholes on Seaford Road in front of the elementary school need attention, and he also requested help with the numerous potholes on Seaford Road.

Mr. Mazur stated the manhole covers had been examined, and the cause of the problem could be from the underground utilities and road settlement.

Ms. Jane Wimbush, District Administrator for the Hampton Roads District, VDOT, appeared to introduce herself to the Board and brief the Board on the Transportation Referendum. She stated that VDOT had not endorsed the referendum, and she elaborated on the projects included in the referendum. She noted that state revenues were down and VDOT had no more funding. She explained that the interstate and primary projects in VDOT's plan have been hit hard by budget cuts, and they would not be put back in the Six-Year Program any time soon. After describing the individual projects on the Transportation Referendum, Ms. Wimbush compared the timeframes in which each project could be completed with or without the referendum.

## **PRESENTATIONS**

### **TRANSPORTATION REFERENDUM**

Mr. Art Collins, Executive Director of the Hampton Roads Planning District Commission, also gave a presentation on the Transportation Referendum. He explained the reasons why the State no longer had funds to support the road system. He detailed some of the State's larger transportation projects and advised that the State had never funded large projects. He mentioned that the Coleman Bridge, the Hampton Roads Bridge Tunnel, and the James River Bridge were some of the larger projects that were funded by tolls. He explained in more detail how the referendum would be funded through taxes and the purchasing of bonds.

### **AVIATION WORLD'S FAIR**

Brigadier General Ron Sconyers (USAF, Ret.), Executive Director, State Steering Committee, appeared before the Board to make a presentation on the Aviation World's Fair. He emphasized that this fair is a World's Fair and not just an air show. He compared it to the Paris World's Fair, the St. Louis World's Fair, and the New York World's Fair, with the possibility of 1 million people coming to the area in April, 2003. He showed a brief video of the Aviation Centennial Park, where 181 acres are being developed to house the fair. The fair is approximately a \$35,000,000 project, principally funded by the state and federal government. He reported statistical information gathered by a survey that indicated many people would be interested in attending.

Meeting Recessed: At 8:09 p.m. Chairman Wiggins declared a short recess.

Meeting Reconvened: At 8:19 p.m. the meeting was reconvened in open session by order of the Chair.

## **PUBLIC HEARINGS**

### **USE OF GRANT FUNDS: YORK COUNTY SHERIFF'S OFFICE**

Mr. McReynolds made a presentation on proposed Resolution R02-161 to authorize the County Administrator to accept and appropriate a Federal Bureau of Justice Assistance grant award for the purchase of law enforcement equipment.

Chairman Wiggins called to order a public hearing on proposed Resolution R02-161 which was duly advertised as required by law and is entitled:

A RESOLUTION TO AUTHORIZE THE COUNTY ADMINISTRATOR TO ACCEPT A GRANT AWARD TO YORK COUNTY BY THE FEDERAL BUREAU OF JUSTICE ASSISTANCE, AND APPROPRIATING THE SAME, FOR THE PURCHASE OF EQUIPMENT TO BE USED FOR LAW ENFORCEMENT AND SECURITY ENHANCEMENT

There being no one present who wished to speak concerning the subject resolution, Chairman Wiggins closed the public hearing.

Mrs. Noll then moved the adoption of proposed Resolution R02-161 which reads:

A RESOLUTION TO AUTHORIZE THE COUNTY ADMINISTRATOR TO ACCEPT A GRANT AWARD TO YORK COUNTY BY THE FEDERAL BUREAU OF JUSTICE ASSISTANCE, AND APPROPRIATING THE SAME, FOR THE PURCHASE OF EQUIPMENT TO BE USED FOR LAW ENFORCEMENT AND SECURITY ENHANCEMENT

WHEREAS, the Federal Bureau of Justice Assistance has awarded York County a grant in the amount of \$67,675 in federal funds under the Local Law Enforcement Block Grant Program, subject to a requirement for a 10 percent local match in the amount of \$7,519; and

WHEREAS, funding exists in the Sheriff's current operating budget to provide the required 10 percent match of \$7,519; and

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WHEREAS the grant will be used to purchase equipment to be used for law enforcement and security enhancement efforts;

NOW, THEREFORE, BE IT RESOLVED, by the York County Board of Supervisors, this the 17<sup>th</sup> day of September, 2002, that the County Administrator be, and hereby is, authorized to accept the grant awarded by the Bureau of Justice Assistance.

BE IT FURTHER RESOLVED, that an additional \$67,675 be, and hereby is, appropriated in the General Fund for the purchase of equipment and computer hardware and software to support law enforcement and security enhancement efforts.

On roll call the vote was:

Yea: (5) Zaremba, Noll, Burgett, Shepperd, Wiggins,  
Nay: (0)

LEASE AGREEMENT: CHILD DEVELOPMENT RESOURCES, INC.

Mr. McReynolds made a presentation on proposed Resolution R02-153 to authorize the execution of a lease agreement with Child Development Resources, Inc., for office space in the Griffin-Yeates Center building.

Chairman Wiggins called to order a public hearing on proposed Resolution R02-153 which was duly advertised as required by law and is entitled:

A RESOLUTION TO AUTHORIZE THE COUNTY ADMINISTRATOR  
TO EXECUTE A LEASE AGREEMENT WITH CHILD DEVELOPMENT  
RESOURCES, INC., A NONPROFIT VIRGINIA CORPORATION, FOR  
OFFICE SPACE IN THE GRIFFIN-YEATES CENTER BUILDING LO-  
CATED ON GOVERNMENT ROAD

There being no one present who wished to speak concerning the subject resolution, Chairman Wiggins closed the public hearing.

Mrs. Noll then moved the adoption of proposed Resolution R02-153 which reads:

A RESOLUTION TO AUTHORIZE THE COUNTY ADMINISTRATOR  
TO EXECUTE A LEASE AGREEMENT WITH CHILD DEVELOPMENT  
RESOURCES, INC., A NONPROFIT VIRGINIA CORPORATION, FOR  
OFFICE SPACE IN THE GRIFFIN-YEATES CENTER BUILDING LO-  
CATED ON GOVERNMENT ROAD

WHEREAS, Child Development Resources, Inc., a nonprofit Virginia Corporation, operates the First Steps program whose purpose is to provide an early childhood educational experience and positive learning opportunities on behalf of economically disadvantaged and other qualified County citizens and which is located in the Griffin-Yeates Center on Government Road; and

WHEREAS, Child Development Resources, Inc., has been renting an office with approximately 200 square feet also located within the Griffin-Yeates Center on Government Road to serve as a base of operations projects relating to young children and children at-risk; and

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WHEREAS, the County desires to make available approximately 200 square feet of office space between Room 6 and Room 10 within the Griffin-Yeates Center located at 1490 Government Road, which is a building owned by the County of York, by the execution of a Lease Agreement for a term of one year with Child Development Resources, Inc.; and

WHEREAS, charges for that space shall be at a rate of \$9.00 per square foot per year with the proceeds from such rental to be dedicated to the County Children's Food Services program; and

WHEREAS, a public hearing on the proposed Lease Agreement, as required under the Code of Virginia, has been properly advertised and conducted on September 17, 2002;

NOW, THEREFORE BE IT RESOLVED by the York County Board of Supervisors this, the 17th day of September, 2002, that the County Administrator be, and he is hereby, authorized to execute a Lease Agreement with Child Development Resources, Inc. for approximately two hundred (200) square feet of office space between Room 6 and Room 10 within the Griffin-Yeates Center, for a term commencing November 1, 2002 and ending October 31, 2003, and in consideration of the sum of nine dollars (\$9.00) per square foot per year.

BE IT FURTHER RESOLVED that proceeds from such rental shall be dedicated to the County Children's Food Service program.

On roll call the vote was:

Yea: (5) Noll, Burgett, Shepperd, Zaremba, Wiggins,  
Nay: (0)

APPLICATION NO. UP-601-02, RICHMOND 20 MHz, LLC, d/b/a NTELOS

Mr. J. Mark Carter, Planning and Zoning Manager, made a presentation on Application No. UP-601-02 to approve a use permit authorizing a 198-foot self-supporting communications tower with associated ground-mounted equipment within a leased area located on a portion of the property of Seaford Baptist Church located at 1311 Seaford Road. The Planning Commission considered the application and forwarded it to the Board of Supervisors with a recommendation of approval, and staff recommended approval of the application through the adoption of proposed Resolution R02-166.

Mr. Burgett asked about the access on Walkin Lane and if the company was going to be responsible for the maintenance of the road.

Mr. Carter suggested that if the parties could come to some agreement on the legal rights to use the lane, some provisions for maintenance would be included. Until such time as they provide documentation of their legal ability to use the right of way, they will have to build a driveway across the Seaford Baptist Church site.

Mrs. Noll asked about a camouflage tower.

Mr. Carter replied that the fake tree would be so far above the existing trees it would look out of place.

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Mr. Shepperd questioned the seven cellular systems getting involved, including the primary customer and the two additional customers allowed to use the tower.

Mr. Carter stated the tower would be high enough to accommodate two additional users.

Chairman Wiggins called to order a public hearing on proposed Application No. UP-601-02 which was duly advertised as required by law. Proposed Resolution R02-166 is entitled:

A RESOLUTION TO APPROVE A SPECIAL USE PERMIT TO  
AUTHORIZE A 198-FOOT SELF-SUPPORTING MONOPOLE COM-  
MUNICATIONS TOWER WITH ASSOCIATED GROUND MOUNTED  
EQUIPMENT AT 1311 SEAFORD ROAD

Mr. Vernon Geddy, representing the applicant, appeared to answer any of the Board's questions. He explained that there was gap in service for NTELOS and, after a search was conducted, there were no existing structures available to meet that need. He explained that the plan was to access the site from the Seaford Baptist Church parking lot. He stated a maintenance arrangement would be a part of any future arrangement to use Walkin Lane.

Ms. Rose Camm, 107 Walkin Lane, appeared before the Board to discuss her concerns regarding the reception in her home and an alternate route for the proposed tower. She said there should be an agreement to improve and maintain the lane since her family had been maintaining it for years. She also wanted to make sure if anything went wrong in the future, she would not have approach a federal institution to get answers if the reception doesn't work or if health problems occurred.

Mr. Geddy stated he did not feel there would be any health problems, and one of the conditions requires compliance with strict federal standards regarding emissions from towers. He explained the plan was to use Seaford Baptist Church parking lot and build a driveway to the facility. He explained that there were previous discussions pertaining to a maintenance agreement for the road. He noted the company owned over 700 towers with no reported trouble in the area of reception.

There being no one else present who wished to speak concerning the subject application, Chairman Wiggins closed the public hearing.

Mr. Zaremba asked why NTELOS had determined that there is a need now for other antennas when no mention has been made by its competitor. He also questioned the risk of potential health problems.

Mr. Mark Cornell, Acquisition Manager for NTELOS, explained what may be an ideal location for one company may not be for another company. He stated that they could not prove there would never be any health problems, but the history was that there have not been any health problems related to the operations of these towers.

Chairman Wiggins asked would the company be responsible if Ms. Camm's television ceased to work after the tower was in place.

Mr. Cornell explained that if a problem occurred with the equipment which affected televisions, it would likely affect the wireless customers as well; and the company would strive to have its equipment operating optimally at all times.

Chairman Wiggins suggested a condition be made that they not use Walkin Lane without a maintenance agreement.

Mr. Barnett explained that the General Assembly says that reasonable conditions can be attached to the permit, and he stated he felt this seemed like a reasonable condition.

Mrs. Noll then moved the adoption of proposed Resolution R02-166(R) which reads:

A RESOLUTION TO APPROVE A SPECIAL USE PERMIT TO  
AUTHORIZE A 198-FOOT SELF-SUPPORTING MONOPOLE COM-  
MUNICATIONS TOWER WITH ASSOCIATED GROUND MOUNTED  
EQUIPMENT AT 1311 SEAFORD ROAD

WHEREAS, Richmond 20MHz, LLC d/b/a NTELOS has submitted Application No. UP-601-02, which requests a special use permit pursuant to Section 24.1-306 (Category 17, No. 7) of the York County Zoning Ordinance to authorize construction of a 198-foot freestanding monopole communications tower with associated equipment on a portion of the parcel located at 1311 Seaford Road (Route 622) and further identified as Assessor's Parcel No. 25-311; and

WHEREAS, said application has been referred to the York County Planning Commission in accordance with applicable procedure; and

WHEREAS, the Planning Commission recommends approval of this application; and

WHEREAS, the York County Board of Supervisors has conducted a duly advertised public hearing on this application; and

WHEREAS, the Board has carefully considered the public comments and Planning Commission recommendation with respect to this application;

NOW, THEREFORE, BE IT RESOLVED by the York County Board of Supervisors this the 17<sup>th</sup> day of September, 2002, that Application No. UP-600-02 be, and it is hereby, approved to authorize construction of a 198-foot freestanding communications tower with associated ground-mounted equipment subject to the following conditions:

1. This use permit shall authorize the construction of a freestanding monopole communications tower with associated equipment on a portion of the 16.07 acre parcel of land located at 1311 Seaford Road (Route 622) and further identified as Assessor's Parcel No. 25-311.
2. The height of the tower shall not exceed 198 feet.
3. A site plan prepared in accordance with the provisions of Article V of the York County Zoning Ordinance shall be submitted to and approved by the County prior to commencement of land clearing or any construction activity on the subject property. Except as modified herein, said plan shall be substantially in conformance with the sketch plan submitted by the applicant titled "NTELOS Telecommunications Facility; Seaford (RMB 6204-02); 1311 Seaford Road, Seaford, Virginia;" Sheets 1 - 3; dated 7/23/02, prepared by Johnson, Merriman & Thompson Engineering, received by the Planning Division July 31, 2002. As part of the site plan submittal, the applicant shall prepare a frequency intermodulation study to determine the impact on current communication transmissions for the York County Departments of Fire and Life Safety and

General Services, Sheriff's Office, School Division, and the Intrac Sewer Telemetry System. Should any equipment associated with this facility at any time during the operation of the tower be found by the County to cause interference with County communications, the applicant shall be responsible for the elimination of said interference within twenty-four (24) hours of receipt of notice from the County.

4. Construction and operation of the tower shall be in conformance with the performance standards set forth in Sections 24.1-493 and 24.1-494 of the Zoning Ordinance.
5. The applicant shall submit to the County a statement from a registered engineer certifying that NIER (nonionizing electromagnetic radiation) emitted from the tower does not result in a ground level exposure at any point outside such facility that exceeds the maximum applicable exposure standards established by any regulatory agency of the U.S. Government or the American National Standards Institute.
6. A report from a registered structural or civil engineer shall be submitted indicating tower height and design, structure installation, and total anticipated capacity of the structure (including number and types of users that the structure can accommodate). These data shall satisfactorily demonstrate that the proposed tower conforms to all structural requirements of the Uniform Statewide Building Code and shall set out whether the tower will meet the structural requirement of EIA-222E, "Structural Standards for Steel Antenna Towers and Antenna Supporting Structures."
7. Alternative access to the site via Walkin Lane may be permitted provided, prior to site plan approval and satisfactory to the Zoning Administrator and County Attorney, documentation is submitted to the County verifying lawful authority of the property owner and the applicant as their lessee to use the Walkin Lane right-of-way for purposes of ingress, egress, and installation and maintenance of utilities associated with the proposed telecommunications facility. In addition, the applicant's authorization to use Walkin Lane shall be subject to development and execution of a maintenance agreement among the parties determined to have access rights.
8. Advertising and signage on the tower shall be expressly prohibited, except for warning signs associated with the operation of the tower or its equipment.
9. Prior to site plan approval, the applicant shall submit written statements from the Federal Aviation Administration, Federal Communications Commission, and any other review authority with jurisdiction over the tower, stating that the proposed tower complies with regulations administered by that agency or that the tower is exempt from those regulations.
10. Evergreen planting material shall be installed for screening as deemed necessary by the Zoning Administrator pursuant to Section 24.1-240 et. seq.
11. If at any time use of the communications tower ceases, the owner of the subject property on which the tower is located shall dismantle and remove it within six (6) months after ceasing to use it, unless:
  - (1) A binding lease agreement or letter of intent with another wireless communications provider has been executed in which case an additional six (6) months shall be granted. If a letter of intent is provided, the execution date for a binding lease agreement shall not extend more than (12) months beyond the time the use of the tower ceases, or



- (2) The County requests, in writing, that the tower be reserved for County use.
12. Accessory facilities shall not include offices, vehicle storage, or outdoor storage unless permitted by the district regulations.
  13. Evidence shall be provided prior to receipt of a building permit that the Virginia State Corporation Commission has been notified that a communication facility is to be constructed.
  14. The equipment building and associated equipment shall be completely enclosed by a security fence to the satisfaction of the County. To facilitate screening of the facility, green netting of a type and materials acceptable to the Zoning Administrator shall be installed on the fence surrounding the facility.
  15. The communication tower shall be gray in color. Should Federal Aviation Administration requirements dictate special markings, tower lighting shall be used in lieu of multi-color painting. If painting is required, a tower maintenance plan shall be submitted to and approved by the County.
  16. No microwave dishes, conical shaped antennae, or other dish shall be permitted on the tower.
  17. The communications tower shall be structurally designed to accommodate no fewer than three (3) wireless users capable of supporting either PCS or cellular antenna arrays. If space is available, the County shall have the right of first refusal for leasing a space on the tower to place an antenna in support of operations consistent with the County's Department of Fire and Life Safety.
  18. Significant modifications to a previously approved communications tower as determined by the Zoning Administrator shall require that a new use permit application be submitted for review in accordance with the provisions of this section. Modifications can be administratively approved if the Zoning Administrator determines the modification to be minor.
  19. In accordance with Section 24.1-115(b)(7) of the York County Zoning Ordinance, a certified copy of the resolution authorizing this special use permit shall be recorded at the expense of the applicant in the name of the property owner as grantor in the office of the Clerk of the Circuit Court.

On roll call the vote was:

Yea: (5) Burgett, Shepperd, Zaremba, Noll, Wiggins,  
Nay: (0)

APPLICATION NO. UP-603-02, VIRGINIA AND EARL YOUNG

Mr. Carter made a presentation on Application No. UP-603-02 to approve a use permit authorizing an accessory apartment containing in excess of 25 percent of the total floor area of the associated single-family detached dwelling located at 114 Fishermans Cove. The Planning Commission considered the application and forwarded it to the Board of Supervisors with a

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recommendation of approval, and staff recommended approval of the application through the adoption of proposed Resolution R02-167.

Mr. Shepperd voiced concerns over the guidelines for accessory apartments.

Mr. Carter stated the staff hoped to bring some draft amendments before the Board soon.

Mr. Zaremba pointed out that from the photographs it appeared the construction had already taken place.

Mr. Carter explained the upper floor was designed to be used for storage; but with sufficient finishing, it could be used as living space. He referred to the applicant for explanation.

Mr. Zaremba asked if the facility could be rented out.

Mr. Carter assured the Board that it could not be rented out and had to be used for family members only.

Chairman Wiggins called to order a public hearing on Application No. UP-603-02 which was duly advertised as required by law. Proposed Resolution R02-167 is entitled:

A RESOLUTION TO APPROVE A SPECIAL USE PERMIT TO  
AUTHORIZE A DETACHED ACCESSORY APARTMENT AT 114  
FISHERMANS COVE

Mr. Robert Criner, 100 Criner Lane, the contractor who designed and built the subject garage, explained it was originally designed as future office space; however, once the applicants saw how nice the construction turned out, they began considering other uses. When the applicants changed their minds, he stated he began the application process.

There being no one else present who wished to speak concerning the subject application, Chairman Wiggins closed the public hearing.

Mr. Burgett then moved the adoption of proposed Resolution R02-167 which reads:

A RESOLUTION TO APPROVE A SPECIAL USE PERMIT TO  
AUTHORIZE A DETACHED ACCESSORY APARTMENT AT 114  
FISHERMANS COVE

WHEREAS, Earl L. and Virginia S. Young, Trustees have submitted Application No. UP-603-02 to request a special use permit, pursuant to Section 24.1-407(c) of the York County Zoning Ordinance, to authorize a detached accessory apartment in conjunction with a single-family detached dwelling to be constructed on property located at 114 Fishermans Cove and further identified as Assessor's Parcel No. 25-429; and

WHEREAS, said application has been referred to the York County Planning Commission in accordance with applicable procedure; and

WHEREAS, the Planning Commission recommends approval of this application; and

WHEREAS, the York County Board of Supervisors has conducted a duly advertised public hearing on this application; and

WHEREAS, the Board has carefully considered the public comments and Planning Commission recommendation with respect to this application;

NOW, THEREFORE, BE IT RESOLVED by the York County Board of Supervisors this the 17th day of September, 2002, that Application No. UP-603-02 be, and it is hereby, approved to authorize a detached accessory apartment in conjunction with a single-family detached dwelling to be constructed on property located at 114 Fishermans Cove and further identified as Assessor's Parcel No. 25-429 subject to the following conditions:

1. This use permit shall authorize a detached accessory apartment in conjunction with a single-family detached dwelling to be constructed on property located at 114 Fishermans Cove and further identified as Assessor's Parcel No. 25-429.
2. Building plans in substantial conformance with the floor plans submitted by the applicant shall be submitted to and approved by the York County Department of Environmental and Development Services, Division of Building Regulation, prior to the issuance of a building permit for the accessory apartment.
3. Not more than one (1) accessory apartment shall be permitted in conjunction with the principal dwelling unit.
4. The accessory apartment unit shall not contain in excess of 900 square feet.
5. The accessory apartment unit shall contain no more than one (1) bedroom.
6. The accessory apartment shall be served by public sewer.
7. Adequate provisions shall be made for off-street parking of motor vehicles in such a fashion as to be compatible with the character of the single-family residence and adjacent properties.
8. The accessory apartment shall not be rented separate from the principal dwelling and shall be occupied only by family members or guests of the occupant of the single-family dwelling.
9. In accordance with Section 24.1-115(b)(7) of the York County Zoning Ordinance, a certified copy of the resolution authorizing this special use permit shall be recorded at the expense of the applicant in the name of the property owner as grantor in the office of the Clerk of the Circuit Court.

On roll call the vote was:

Yea: (5) Shepperd, Zaremba, Noll, Burgett, Wiggins,  
Nay: (0)

SCHOOL CAPITAL PROJECT FUNDING (Removed from the Agenda)

Mr. McReynolds explained that there was an error in the wording of the newspaper ad for this item which will have to be readvertised for a public hearing to be held October 1, 2002.

**CITIZENS COMMENT PERIOD**

Ms. Shirley Cooper, 106 Old Dominion Road, appeared before the Board to show her support for Nick's Seafood Pavilion. She asked that the Board consider the citizens' concerns before making its decision on the future of Nick's. She stated she felt very strongly that the plans for Nick's and the waterfront could mesh very nicely. She stated there was no need to tear down the current facility which was internationally known, and she encouraged the Board to listen to the people and consider their petitions. She suggested that the Board put the future of Nick's Seafood Pavilion on the ballot to allow people to vote on the issue.

Ms. Kimberly Keel, North Bayhaven Road, Gwynns Island, appeared in support of Nick's Seafood Pavilion. She stated she was an employee of Nick's and a co-sponsor of the petition to save the restaurant. She noted she plans to continue the petition drive as long as it takes to keep the restaurant intact.

Ms. Cheryl Hogge, 1635 Greate Road, Gloucester Point, also appeared to support Nick's remaining in Yorktown. She noted she works at the restaurant and elaborated on the yearly traditions of Nick's, and she stated she does not feel that tearing down the restaurant is an option. She suggested a location for a new parking lot, and indicated she had spoken with The Honorable John Warren Cook, former speaker of the House of Delegates, who conveyed his opposition to moving Nick's. Ms. Hogge suggested the County locate a buyer for the restaurant to continue its existence.

Mr. Bill Wells, 109 Kings Grant Drive, spoke on behalf of his father and himself as a patron of Nick's Seafood. He stated he utilizes Nick's to entertain customers and clients who are in the seafood business. He stated that Nick's is not about a building, but the memory of Nick and Miss Mary, the story of two people who came here with nothing and made a success of their life. He asked that the Board consider keeping the restaurant whether they refurbish, replace it, or move the building.

Mr. Nicholas Whitby, 2337 Farrand Drive, Richmond, Virginia, expressed concerns over the future of Nick's Seafood Restaurant and asked that it remain where it is without changing a thing. He stated it was a landmark special to the County, the Commonwealth, and to the nation. He stated that Nick and Mary Mathews gave to the community, and he reminisced on their background and the christening of the USS Yorktown by Miss Mary. He asked if the Board held a public hearing before demolishing the Mathews' home on top of the hill, and he asked the Board to hold a public hearing on the parking issue that will be discussed on September 24 at a work session.

Cpt. Carl Anderson (USN, Ret.), 4604 Oceanfront Avenue, Virginia Beach, appeared before the Board to support the continuing operation of Nick's Seafood. He was the commanding officer during the commissioning of the USS Yorktown. He stated Nick's was more than a restaurant—it was symbolic of freedom as well as a landmark. He told the Board the restaurant is known worldwide and contributes to the growth to the community.

Mr. Gary Freeman, 120 Ballard Street, stated he thought rebuilding Nick's on top of the hill was a bad idea and a bad option. He explained that the restaurant was a high-impact business and required a large parking lot to support it while all the other businesses in the village were residential in character with only one or two parking spaces. He then read a few excerpts from the Master Plan about preserving the character of Yorktown and encouraging commercial development consistent with the needs of existing potential residents and visitors.

Mr. Jack Georgalas, 726 York Point Road, co-executor of the Estate of Mary Mathews, appeared to support Nick's Seafood Restaurant. He commented on Miss Mary's contributions to the

community and her philanthropy. He stated he felt it would be tragic to take down the restaurant, and he was proud to entertain customers at Nick's. He recommended that the County sell the restaurant to a restaurateur to allow the restaurant continue.

### **COUNTY ATTORNEY REPORTS AND REQUESTS**

Mr. Barnett clarified the misconception that the County owns Nick's Seafood Pavilion by explaining that the restaurant is owned by Nick's Seafood Pavilion, Inc., a private corporation in existence since 1940, and that the stock is owned by the Industrial Development Authority. Mr. Barnett then reported receiving phone calls about deer hunting in the Edgehill subdivision and how someone is trying to organize bow hunting in that subdivision. He explained that several years ago the Department of Game and Inland Fisheries suggested the County organize a deer hunt to help eliminate some of the deer population. One issue explored was whether or not kill permits should be issued as allowed by statute. He stated hunting was permitted if people have the hunting permit issued by the Virginia Department of Game and Inland Fisheries and that permission is needed for any type of hunting to take place on anyone's land.

Mr. Zaremba addressed the deer hunt last year in the village of Yorktown which was conducted by professional archers. He pointed out that the property owners would have to give their permission.

### **COUNTY ADMINISTRATOR REPORTS AND REQUESTS**

Mr. McReynolds reported on the mosquito problems in the area and stated that the Mosquito Control Division was spraying at capacity working six or seven days a week. He stated that staff has also worked with the Air Force to coordinate another aerial spraying, and it was anticipated that the Air Force would have the planes up the first week of October. He then announced a meeting on the West Nile Virus would be held on September 18 at the Tabb High School Auditorium at 7:00 p.m. He also reminded the Board of its work session on September 24 for staff's presentation of the condition of the Nick's Seafood Pavilion. The presentation will include estimated renovation costs, plans, and drawings for the development proposed for the waterfront area, and the results of the parking study. He informed the Board of the Informational Forum on the waterfront project to be held on October 2 in the Grafton High School Atrium and September 26 and October 3 in the County Administration Center to allow citizens to view the proposed model and drawings. He reminded the Board of its next regularly scheduled meeting on October 1 and a work session on October 8 to provide the staff with additional direction on how to proceed with the Yorktown Revitalization Project and discussions on the legislative agenda for 2003.

### **MATTERS PRESENTED BY THE BOARD**

Mrs. Noll spoke on the legislative agenda from the Transportation Safety Commission on the photo red-light legislation that hasn't passed. She explained that each year more than 1.8 million intersection crashes occur throughout the nation with 200,000 due to red light running, and at least 750 of the red-light crashes are fatal. She reported on the meeting she had attended with Chairman Wiggins concerning the Ghost Fleet in the James River. She shared her concerns in the effort to clean up the serious problem since no funding is available.

Mr. Burgett reported attending the annual meeting of the York County Volunteer Association, the citizens that manage the Bargain Box. He explained the workings of the Bargain Box and

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how the Volunteer Association put money back into the community. The volunteers put in 20,000 hours of service, or \$321,400 according to the County's pay scale. Mr. Burgett then discussed the special use permit process, encouraging citizens and businesses to apply for a special use permit at the onset of the process, rather than during the construction of a project.

Mr. Shepperd read portions of letters from citizens commending the Department of Fire and Life Safety for its help. He thanked that department and noted the wonderful job it does in taking care of the County's citizens. He then provided information on the upcoming West Nile Virus meeting to take place on September 18 at Tabb High School.

Mr. Zaremba referenced an editorial article in the Daily Press on the forthcoming Transportation Referendum. He voiced concerns over elected leaders taking a stance on the referendum and added that the Board of Supervisors should take make a decision on how it stands on the referendum and let the citizens know of its position. He commented on Nick's Seafood Pavilion and acknowledged that the County owes a lot to Nick and Mary Mathews. He stated the public does not yet have access to the reports on whether the business operates in the black or the red. He voiced his concerns over the physical structure of the restaurant and stated the County will soon receive reports on the physical structure. He pointed out that costs will also be a factor in the Board's decision.

Chairman Wiggins spoke concerning the James River idle fleet and the dangers of those ships in the James River. He reported that some of the ships are in such bad shape that they are subject to leaking oil or sinking. He explained the need for officials and citizens to become involved and to contact their senators and congressmen request funding to clean up the fleet. He spoke of his voyage from Norfolk to Yorktown on the USS Yorktown and displayed a picture of the ship received from the Captain. He mentioned the memorial services throughout the County held in recognition of the 911 tragedy, and he noted he had attended the Rainbrook Villas' Annual Luau.

### **CONSENT CALENDAR**

Mr. McReynolds explained that there was an error on Page 785 of the minutes and noted the correction.

Mrs. Noll moved that the Consent Calendar be approved as submitted, Item Nos. 6, 7, 8, 9, 10, 11, and 12 respectively.

On roll call the vote was:

|      |     |   |
|------|-----|---|
| Yea: | (5) | Zaremba, Noll, Burgett, Shepperd, Wiggins |
| Nay: | (0) |   |

Thereupon, the following minutes were approved and resolutions adopted:

### **Item No. 6. APPROVAL OF MINUTES**

The minutes of the following meetings of the York County Board of Supervisors were approved:

August 13, 2002, Adjourned Meeting.  
August 20, 2002, Regular Meeting.

Item No. 7. PUBLIC SEWER EXTENSION AGREEMENT: OVERLOOK POINT: Proposed Resolution R02-160.

A RESOLUTION TO AUTHORIZE AN EXTENSION OF THE COUNTY'S SANITARY SEWER SYSTEM TO A PROPOSED DEVELOPMENT KNOWN AS OVERLOOK POINT, AND AUTHORIZING EXECUTION OF THE NECESSARY PUBLIC SEWER EXTENSION AGREEMENT

WHEREAS, Mansion Properties, Inc. has requested that the County enter into a public sewer extension agreement pursuant to § 18.1-53 (b) of the York County Code to serve fifty new residential lots; and

WHEREAS, the plan for the proposed project has been reviewed by the County; and

WHEREAS, prior to final approval of these plans and the initiation of any construction activity, it is necessary that a determination be made as to whether the Board will authorize the extension of the public sewer facilities of the County to serve the proposed development; and

WHEREAS, it has been determined that sufficient capacity exists in the County's existing sewer system to serve the proposed development, or will exist when the facilities proposed by the developer are constructed; and

WHEREAS, in accordance with the terms of Chapter 18.1 of the York County Code the total connection fee to be paid to the County for the proposed extension to serve this development has been determined to be \$115,000.00;

NOW, THEREFORE, BE IT RESOLVED by the York County Board of Supervisors this 17th day of September, 2002, that the Board approves the extension of the County's public sewer system to serve the proposed development, Overlook Point, and that the County Administrator be, and he hereby is, authorized to execute a public sewer extension agreement with Mansion Properties, Inc. for the proposed extension; such agreement to be approved as to form by the County Attorney.

Item No. 8. YORK COUNTY HISTORICAL MUSEUM: Resolution R02-163.

A RESOLUTION TO AUTHORIZE REVISIONS TO A LEASE AGREEMENT BETWEEN THE COUNTY OF YORK AND THE YORK COUNTY HISTORICAL MUSEUM FOR USE OF A HOUSE, AUXILIARY BUILDING AND GROUNDS KNOWN COLLECTIVELY AS THE MAPP PROPERTY FOR STORAGE AND OCCASIONAL WORK

WHEREAS, the York County Historical Committee has long planned a Museum for the County and the Board of Supervisors desires to support such an effort; and

WHEREAS, County staff have worked with the Historical Committee to design an appropriate corporate organizational structure, and such documents as Bylaws, Articles of Incorporation and a provisional corporate Board to establish and operate a Museum, have been prepared; and

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WHEREAS, the York County Board of Supervisors held a public hearing on December 4<sup>th</sup>, 2001, and authorized a lease agreement between the County and the Museum Board for County owned property identified as the Mapp property;

WHEREAS, it has now been determined that primary structure is not suitable for exhibition and instruction, it is therefore necessary to revise the approved lease agreement to reflect use that is limited to storage and occasional work on exhibition materials and artifacts;

NOW, THEREFORE, BE IT RESOLVED by the York County Board of Supervisors this 17<sup>th</sup> day of September, that the County Administrator be, and he hereby is, authorized to execute a revised lease agreement between the County of York and Museum Board of Directors for occupancy of the County owned property referred to as the "Mapp House" and adjacent grounds located at 619 Cook Road, Yorktown, for the sole purposes of storage and occasional work on exhibition materials and artifacts.

Item No. 9. DIRT STREET IMPROVEMENT PROGRAM: KAY LANE: Resolution R02-124.

A RESOLUTION TO DIRECT THE COUNTY ADMINISTRATOR TO REQUEST THE VIRGINIA DEPARTMENT OF TRANSPORTATION TO PERFORM IMPROVEMENTS TO KAY LANE UNDER THE RURAL ADDITIONS PROGRAM AND UPON COMPLETION TO ACCEPT KAY LANE INTO THE STATE SECONDARY ROAD SYSTEM.

WHEREAS, the Board of Supervisors has established the "Dirt Street Program" to upgrade unimproved streets to the extent necessary for acceptance by the Virginia Department of Transportation into the state secondary road system, and Kay Lane has been selected as an unimproved street that could be improved under this program; and

WHEREAS, Kay Lane meets Virginia Department of Transportation criteria for improvement under this program in that it was established prior to 1988 and currently serves more than 3 families per mile; and

WHEREAS, VDOT has deemed this County's current subdivision control ordinance meets all necessary requirements to qualify this County to recommend additions to the secondary system of state highways, pursuant to Section 33.1-72.1, Code of Virginia; and

WHEREAS, after examining the ownership of all property abutting this street, this Board finds the speculative interest does not exist; and

WHEREAS, the Virginia Department of Transportation has agreed to fully fund street improvements for Kay Lane, minus utility work, for an amount not to exceed \$148,593, to enable acceptance into the state secondary road system; and

WHEREAS, the York County Board of Supervisors does hereby guarantee unencumbered rights-of-way, as described on the following Form SR-5A, plus the necessary easements for cuts, fills, and drainage for this street:

NOW, THEREFORE, BE IT RESOLVED by the York County Board of Supervisors, this the 17th day of September, 2002, that the Virginia Department of Transportation be, and it hereby is, requested to perform improvements to the street described on the following Form SR-5A and



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to add and maintain the street as part of the Secondary System of State Highways, pursuant to Section 33.1-72.1(D), Code of Virginia.

**In the County of York**

By resolution of the governing body adopted September 17, 2002

***The following Form SR-5A is hereby attached and incorporated as part of the governing body's resolution for changes in the secondary system of state highways.***

**Report of Changes in the Secondary System of State Highways**

Form SR-5A

Secondary Roads Division 5/1/99

**Project/Subdivision**

**Kay Lane**

Type of Change: **Addition**

The following additions to the Secondary System of State Highways, pursuant to the statutory provision or provisions cited, are hereby requested, the right of way for which, including additional easements for drainage as required, is guaranteed:

Reason for Change: Addition, Rural

Pursuant to Code of Virginia Statute: **§33.1-72.1(D)**

**Route Number and/or Street Name**

**Kay Lane**

*Description:* **From:** Route 134 (Hampton Highway)

**To:** End of Cul-de-sac

A distance of: 0.10 miles.

*Right of Way Record:* Filed with the Clerk of the Circuit Court on 08/28/2002, Instrument Number: 020017483, with a width of 50 ft.

Item No. 10. APPROVAL OF PROCUREMENT ACTION: Resolution R02-165.

A RESOLUTION TO AUTHORIZE THE COUNTY ADMINISTRATOR  
TO PURCHASE FOUR REPLACEMENT VEHICLES FOR THE SHER-  
RIF'S OFFICE

WHEREAS, it is the policy of the Board of Supervisors that all procurements of goods and services by the County involving the expenditure of \$30,000 or more be submitted to the Board for its review and approval; and

WHEREAS, the County Administrator has determined that the following procurement is necessary and desirable, that it involves the expenditure of \$30,000 or more, and that all-applicable laws, ordinances, and regulations have been complied with;

NOW, THEREFORE, BE IT RESOLVED by the York County Board of Supervisors this 17th day of September, 2002, that the County Administrator be, and hereby is, authorized to execute procurement arrangements for the following:

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Police Package Vehicles (4 at \$17,325.75 each)

AMOUNT  
\$69,303

Item No. 11. AMENDMENTS TO PERSONNEL POLICIES AND PROCEDURES: Resolution R02-164.

A RESOLUTION TO AMEND AND READOPT AS COUNTY POLICY THE PERSONNEL POLICIES AND PROCEDURES MANUAL TO BECOME EFFECTIVE OCTOBER 1, 2002.

WHEREAS, it is the desire of the Board of Supervisors to consolidate and structure all formal personnel policies within the County into a single document subject to the annual review and approval of the Board of Supervisors; and

WHEREAS, the Board has caused such Personnel Policies and Procedures Manual to be developed and submitted for its consideration; and

WHEREAS, the Personnel Policies and Procedures Manual was approved and adopted by the Board by Resolution No. R91-287 on December 19, 1991, and the Board has subsequently reviewed and amended this Manual on an annual basis; and

WHEREAS, in accordance with County policy, staff has completed the required annual review of the Personnel Policies and Procedures Manual for the current year and the County Administrator has submitted certain revisions and changes to the Manual for consideration by the Board which are incorporated into a revised manual dated October 1, 2002;

NOW, THEREFORE, BE IT RESOLVED by the York County Board of Supervisors this 17<sup>th</sup> day of September, 2002, that the document identified as the York County Personnel Policies and Procedures Manual be adopted by the Board with an effective date of October 1, 2002.

Item No. 12. AMENDMENTS TO BOARD POLICIES: Resolution R02-170.

A RESOLUTION TO ADOPT CERTAIN AMENDMENTS TO BOARD POLICY NUMBERS BP94-08, BP94-11 AND BP94-14

WHEREAS, the York County Board of Supervisors adopted the Board Policies Manual on October 20, 1994; and

WHEREAS, in accordance with Board Policy Number BP94-01, the County Administrator has conducted an annual review of the adopted Policies and has submitted recommendations for certain amendments to three policies; and

WHEREAS, the Board has carefully considered the recommendations set forth in the County Administrator's report to the Board dated August 6, 2002 and has determined that approval of the proposed amendments is appropriate.

NOW, THEREFORE, BE IT RESOLVED by the York County Board of Supervisors this the 17th day of September, 2002, that Board Policy Numbers BP94-08, BP94-11 and BP94-14 be, and they are hereby, amended and adopted to read as set forth in the attachments to the County Administrator's memorandum to the Board of Supervisors dated August 6, 2002.

**NEW BUSINESS****POST EMPLOYMENT BENEFITS FUND AGREEMENT**

Mr. McReynolds made a presentation on proposed Resolution R02-169 to adopt the Post Employment Benefit Reserve Agreement between the County of York and the County School Board of York County.

Mr. Zaremba asked why the language in Paragraph 4 on Page 2 was included in the agreement.

Mrs. Carol White, Director of Financial and Management Services, explained that they paragraph was added as a standard cover showing an agreement between both parties on the nature of disbursements.

Mr. McReynolds further explained that any expenditure from this fund would require Board approval. The intent is that should this fund build to the level beyond what is necessary or should there be some sort of emergency that required additional funding, there would be the option for the School Board and the Board of Supervisors to agree on the funds being used for another purpose.

Mrs. Noll then moved the adoption of proposed Resolution R02-169 which reads:

A RESOLUTION TO ADOPT THE POST EMPLOYMENT BENEFIT  
FUND AGREEMENT BETWEEN THE COUNTY OF YORK AND THE  
COUNTY SCHOOL BOARD OF YORK COUNTY.

WHEREAS, the School Board and the County desire to create a reserve fund in Fiscal Year 2003 with local funds in an amount equal to the excess of the amount budgeted for the employer share of the retiree health care cost in the FY2003 School Operating Budget over the amount projected to be spent for the employer share of retiree health care cost in FY2003. Any funds deposited to the reserve fund shall be managed by the County and disbursed to the School Board in future fiscal years as requested by the School Board in their operating budgets, or disbursed for any other purpose as mutually agreed by the School Board and the County, in accordance with the terms and conditions of this agreement; and

WHEREAS, it is the intent of the School Board and the County to accumulate over time a reserve fund sufficient to allow the balance in such fund to be used for the gradual phasing-in to the School Operating budget in future fiscal years of the increased cost of the employer share of the retiree health insurance benefit as well as any other post employment benefit that may be offered by the School Board. It is also the intent of the School Board and the County to use the balance in the fund to provide additional lead time for expenditure planning should significant shortfalls occur in actual post employment benefit costs in any given fiscal year.

WHEREAS, the County and the School Board agree as follows:

1. The reserve fund shall be designated as the Post Employment Benefit Reserve Fund (hereinafter "the Reserve Fund"). Funds transferred to the Reserve Fund by the School Board will be held in a segregated interest bearing account under the authority and control of the County. Thereafter, disbursements out of the Reserve Fund of either principal or interest shall be made only in accordance with this agreement.

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2. Beginning in fiscal year 2003, and in each fiscal year thereafter for the duration of this agreement, should the amount budgeted for post employment benefits exceed the projected expenditures, the School Board may transfer local funds in an amount equal to the excess to the Reserve Fund, to be held and disbursed as provided for in this agreement. Additionally, the School Board may, as they deem appropriate, transfer additional funds to the Reserve Fund during any fiscal year. Conversely, if in any fiscal year, actual cost to the School Board for the employer contribution to retiree health care insurance or any other post employment benefits is less than the amount in the School Board's budget for post employment benefits as approved by the County for that year, upon a request by the School Board the County may appropriate to the School Board out of the reserve fund an amount not to exceed the difference between the budgeted amount and the actual expenditures.
3. This agreement shall be in effect for so long as there are funds remaining in the Reserve Fund.
4. Nothing herein shall prevent the parties from directing the disbursement out of the Reserve Fund for any purpose upon which both parties may agree.
5. The parties acknowledge that the binding effect of this agreement in future fiscal years is limited by the operation of the laws of the Commonwealth of Virginia. Nonetheless, the parties agree that it is the present intention of both parties to abide by the terms of this agreement in good faith.

NOW, THEREFORE, BE IT RESOLVED by the York County Board of Supervisors this 17th day of September, 2002, that the County Administrator be, and he is hereby, authorized to execute the Post Employment Benefit Fund Agreement between the County of York and the County School Board of York County and as included in the County Administrator's memorandum to the Board dated September 4, 2002.

On roll call the vote was:

Yea: (5) Burgett, Shepperd, Zaremba, Noll, Wiggins,  
Nay: (0)

EMERGENCY WATER ORDINANCE NO. 02-18 (Added)

Mr. John Hudgins, Director of Environmental and Development Services, explained that proposed Ordinance No. 02-18 was in compliance with the Governor's Executive Order 33 for declaration of a water supply emergency pursuant to Virginia Code Sections 15.2-924, 44-146.19, and 44-146.21, and to adopt restrictions for outdoor water use and to provide penalties for a violation thereof.

Mrs. Noll then moved the adoption of proposed Ordinance 02-18 which reads:

AN EMERGENCY ORDINANCE IN ACCORDANCE WITH THE GOVERNOR OF VIRGINIA'S EXECUTIVE ORDER 33 FOR DECLARATION OF A WATER SUPPLY EMERGENCY PURSUANT TO VIRGINIA CODE SECTIONS 15.2-924, 44-146.19, AND 44-146.21 AND TO ADOPT RESTRICTIONS FOR OUTDOOR WATER USE AND TO PROVIDE PENALTIES FOR A VIOLATION THEREOF

WHEREAS, the Commonwealth of Virginia, the Hampton Roads Area and the County of York have experienced an extended period of drought and the level of surface water impoundments, rivers, underground aquifers, and other drinking water sources have declined substantially; and

WHEREAS, August 30, 2002, the Governor of Virginia has issued Executive Order 33 (2002) which prohibits many uses of surface water and groundwater, including but not limited to watering lawns, washing vehicles, filling swimming pools, irrigating golf courses (with certain limited exceptions for each); and

WHEREAS, the Governor's Executive Order 33 (2002) authorizes localities to "establish, collect and retain fines for violation of these restrictions"; and

WHEREAS, pursuant to Virginia Code Section 15.2-924, the Board of Supervisors of York County, Virginia, is empowered to declare that a water supply emergency exists and adopt restrictions on the use of outdoor water is necessary in order to protect the health, safety, and welfare of the citizens of the County of York; and

WHEREAS, pursuant to Virginia Code Section 44-146.21, the Board of Supervisors of York County, Virginia, is empowered to declare a local state of emergency and to take appropriate actions to end the declared emergency, and pursuant to Code of Virginia section 44-146.19 is empowered to regulate the use of resource systems following the declaration of a state of emergency by the Governor.

NOW, THEREFORE, BE IT ORDAINED by the York County Board of Supervisors this the 17<sup>th</sup> day of September, 2002, that the following emergency water usage restrictions are hereby enacted:

#### **Section 1. Declaration of emergency affecting water supply.**

Due to the decreased level of above ground and underground water supplies affecting the public water systems serving County residents and the anticipated demand for water in the immediate future, and due to the Governor's Executive Order 33 (2002), the Board of Supervisors of York County hereby declares and finds pursuant to Code of Virginia sections 15.2-924 and 44-146.21 that a water supply emergency exists amounting to a local emergency which necessitates the adoption of this Ordinance mandating restriction on the use of water in the County under the terms and condition set forth herein.

#### **Section 2. Definitions.**

The following words and phrases, when used in this Ordinance, shall have the meaning ascribed to them below, except in those instances where the context clearly indicates a different meaning:

*Assessment date:* The date of the notice imposing the fine for a violation of this Ordinance.

*Lawn:* Grass areas of any property, including residential, commercial or industrial areas, but excluding agricultural fields and athletic fields.

*New or refurbished lawn or fairway:* a new lawn or fairway under construction or an existing lawn or fairway area which has been over-seeded or resodded.

*Person:* Any individual, corporation, partnership, association, company, business, trust, joint venture or other legal entity.

*Vehicle:* A motor vehicle or semi-trailer as defined in Virginia Code Section 46.2-100, which requires titling and registration pursuant to Virginia Code Section 46.2-600 et. seq.

### **Section 3. Mandatory surface and ground water use restriction measures.**

All persons and households in the County shall limit their use of water, which includes water from the public water system, and ground water consistent with the Executive Order, and in accordance with this section:

- (a) Lawns: Watering of lawns is prohibited at all times. New or refurbished lawns may be watered for a period not to exceed 30 days.
- (b) Vehicle Washing: Vehicle washing by persons other than commercial car washes is prohibited at all times. Commercial car washes, auto dealers, body shops and car rental agencies are permitted to operate under normal conditions, except that such businesses may not wash corporate fleet vehicles.
- (c) Swimming Pools: Filling is prohibited at all times, with the exception of pools used by health care facilities for patient care and rehabilitation, which are permitted to operate under normal conditions. New or repaired pools may be filled as needed to maintain the structural integrity of the pool. Indoor pools may be filled as necessary to ensure swimmer health and safety.
- (d) Golf Courses: Watering of tees and greens is permitted daily between the hours of 8:00 p.m. and 8:00 a.m. All other watering is prohibited at all times, except that new and refurbished fairways may be watered for a period not to exceed 30 days and the hand watering of greens by means of a hose with an automatic shut-off nozzle which is continuously attended.

### **Section 4. When restrictions go into effect.**

The water use restrictions set forth in this Ordinance shall take effect immediately. The water use restrictions shall remain in effect so long as the Executive Order remains in full force and effect.

### **Section 5. Violation.**

It shall be a violation of this Ordinance for any person to use water, or allow or cause the use of water, in violation of the provisions of this Ordinance.

### **Section 6. Penalty.**

- (a) Any person who violates any provision of this Ordinance shall be subject to the following fines:
  - (1) For the first offense, violators shall receive a written warning.
  - (2) For the second offense, violators shall be fined \$50.00.
  - (3) For the third offense, violators shall be fined \$100.00.
  - (4) For the fourth offense and subsequent offense, violators shall be fined \$250.00.

- (5) Each violation by a person shall be counted as a separate violation by that person, irrespective of the location at which the violation occurs.
- (b) The County, or its designee, shall serve the written warning or assessment of fine by either:
  - (1) Hand delivering the document to the violator or other adult occupying or employed by a business on the property where the violation occurred; or
  - (2) Posting the document on the front door of the primary structure and mailing, by first class U.S. Mail, a copy of the document to the owner of record at the current mailing address contained in the County's Real Estate Assessment records for the property where the violation occurred.
- (c) Persons who have been assessed a fine shall have the right to challenge the assessment by providing a written notice to the County Administrator within ten (10) days of the date of the assessment of the penalty. The County Administrator or his designee shall determine whether the fine was properly assessed and notify the complaining person in writing of his determination. Should the County Administrator or his designee determine that the fine was properly assessed, the person may challenge that determination within ten (10) calendar days of receiving the notice of determination by filing an action in court.
- (d) The County Administrator or his designee may waive the penalty if he determines that the violation occurred due to no fault of the person.

#### **Section 7. Severability.**

The provisions of this Ordinance are severable, and the invalidity of any provision in the Ordinance, as determined by a court of competent jurisdiction, shall not affect the validity of any other provision in the Ordinance.

#### **Section 8. Effective Date.**

This Ordinance shall take effect immediately.

On roll call the vote was:

Yea: (5) Shepperd, Zaremba, Noll, Burgett, Wiggins,  
Nay: (0)

**CLOSED MEETING.** At 10:40p.m. Mr. Zaremba moved that the meeting be convened in Closed Meeting pursuant to Section 2.2-3711(a)(1) of the Code of Virginia pertaining to appointments to Boards and Commissions.

On roll call the vote was:

Yea: (5) Zaremba, Noll, Burgett, Shepperd, Wiggins  
Nay: (0)

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Meeting Reconvened. At 10:58 p.m. the meeting was reconvened in open session by order of the Chair.

Mr. Burgett moved the adoption of proposed Resolution SR-1 that reads:

A RESOLUTION TO CERTIFY COMPLIANCE WITH THE FREEDOM  
OF INFORMATION ACT REGARDING MEETING IN CLOSED MEET-  
ING

WHEREAS, the York County Board of Supervisors has convened a closed meeting on this date pursuant to an affirmative recorded vote and in accordance with the provisions of the Virginia Freedom of Information Act; and

WHEREAS, Section 2.2-3711.1 of the Code of Virginia requires a certification by the York County Board of Supervisors that such closed meeting was conducted in conformity with Virginia law;

NOW, THEREFORE, BE IT RESOLVED by the York County Board of Supervisors this the 17th day of September, 2002, hereby certifies that, to the best of each member's knowledge, (1) only public business matters lawfully exempted from open meeting requirements by Virginia law were discussed in the closed meeting to which this certification resolution applies, and (2) only such public business matters as were identified in the motion convening the closed meeting were heard, discussed, or considered by the York County Board of Supervisors.

On roll call the vote was:

Yea: (5) Noll, Burgett, Shepperd, Zaremba, Wiggins  
Nay: (0)

APPOINTMENT TO THE YORK COUNTY HISTORICAL MUSEUM BOARD OF DIRECTORS

Mrs. Noll moved the adoption of proposed Resolution R02-168 which reads:

A RESOLUTION TO APPOINT A YORK COUNTY REPRESENTATIVE  
TO THE BOARD OF DIRECTORS OF THE YORK COUNTY HISTORI-  
CAL MUSEUM

BE IT RESOLVED by the York County Board of Supervisors this 17th day of September 2002, that Belinda Willis, be and is hereby, appointed to the Board of Directors of the York County Historical Museum, such term to begin immediately and expire September 30, 2006.

On roll call the vote was:

Yea: (5) Burgett, Shepperd, Zaremba, Noll Wiggins,  
Nay: (0)

Meeting Adjourned. At 11:01p.m. Chairman Wiggins declared the meeting adjourned to 6:00 p.m., Tuesday, September 24, 2002, in the East Room, York Hall, for the purpose of conducting a work session.



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James O. McReynolds, Clerk  
York County Board of Supervisors

Donald E. Wiggins, Chairman  
York County Board of Supervisors